

REMARKS

Claims 41, 43-44, 48, 51-52, 56, and 75-86 are pending in this application and are presented for examination.

The Examiner has indicated that restriction to one of the inventions set forth in Groups IA or IB is required under 35 U.S.C. § 121.

In response, Applicants elect herewith Group IA, drawn to nucleic acids, vectors, host cells, compositions, and kits, classified in class 536, subclass 24.1. Claims readable thereon include claims 41, 43-44, 48, 51-52, 56, 75-84, and 86. This election is made with *traverse*.

The traversal is on the grounds that the subject matter of all the claims has already been searched and examined by the Patent Office. Claims 49-50, directed to primers and primer pairs, were added with the Preliminary Amendment filed February 9, 2004. In the Restriction Requirement mailed October 11, 2006, claims 49-50 were grouped together in Group I, which was elected by Applicants with traverse. According to the file history, the claimed subject matter of Group I was searched on January 4, 2007 and again on January 8, 2007. Applicants canceled claims 49-50 in the Amendment filed July 25, 2007, but added claims 84-85, directed to primers and primer pairs, the subject matter of which had already been searched. As such, there can be no serious burden on the Patent Office if the search and examination of Groups IA and IB have already been conducted.

Restriction of an application is discretionary, and a restriction requirement is made only to avoid placing an undue examination burden on the Examiner and the Patent Office. Where claims can be examined together without undue burden, the Examiner must examine the claims on the merits, even if they are directed to independent and distinct inventions. M.P.E.P. § 803.01.

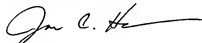
Groups IA and IB share a "Class 536" classification and art of the same class will be used to examine all the claims of the instant application. Accordingly, Applicants respectfully request that all the claims be rejoined and examined on the merits.

Appl. No. 10/775,501
Amdt. dated December 18, 2007
Reply to Office Action of October 18, 2007

PATENT

In view of the foregoing, Applicants respectfully request quick action on the merits. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



Joe C. Hao
Reg. No. 55,246

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 925-472-5000
Fax: 415-576-0300
JCH:jch
61237406 v1